

DRMS-D 5145.1

DRMS-G

August 7, 2006

**DEFENSE REUTILIZATION AND MARKETING SERVICE
ALTERNATIVE DISPUTE RESOLUTION (ADR) PROGRAM**

A. REFERENCES.

1. DLA One Book Chapter, Alternative Dispute Resolution.
2. Alternate Dispute Resolution Act (ADRA) of 1996, Pub. L. No. 101-552, as amended by Pub. L. No. 104-320.
3. DoD Directive 5145.5, Alternative Dispute Resolution (ADR), April 22, 1996.
4. DLA One Book Chapter, Legal Matters.
5. <http://www.dscc.dla.mil/downloads/legal/adr/finaladr2006program.doc>
6. DRMS Legal Webpage located at:
<https://www.drms.dla.mil/drms/intranet/legal/legal.htm>

B. PURPOSE. This directive assigns responsibilities and policies for implementation of the Alternative Dispute Resolution (ADR) program and encourages expanded use of ADR within the Defense Reutilization and Marketing Service (DRMS).

C. APPLICABILITY AND SCOPE. This directive applies to DRMS as well as all field activities, and to all issues in controversy, as defined herein. It provides internal policy only and does not confer any rights on parties to an issue in controversy with the Defense Logistics Agency (DLA). Use of ADR for bargaining unit employees will be subject to local negotiation.

D. DEFINITIONS.

1. ADR Working Group. A team established by the Office of Counsel responsible for promoting ADR awareness, education, and training.
2. Alternative Dispute Resolution (ADR). Any procedure (for example, mediation, conciliation, facilitation, fact-finding, use of ombudsman, early neutral evaluation, mini-trials, settlement judge, summary trial with binding decision at the Armed Services Board of Contract Appeals (ASBCA), arbitration, or any combination, thereof) or any other method to which the parties agree for resolving issues in controversy, except the term does not include unassisted negotiations.
3. Alternative Dispute Resolution Specialist. An official designated by the DRMS Chief Counsel, responsible for the development and implementation of the ADR program for DRMS and its subordinate

elements. The ADR Specialist is the person responsible for maintaining the DLA Field Activity ADR program and submitting reporting requirements to the DLA ADR Counsel.

4. Responsible Management Official (RMO). The person responsible for and with authority to take action in which an issue in controversy has arisen, for example, the Contracting Officer, supervisor or other management official having authority to grant relief or decide the issue. The RMO is responsible for ensuring he/she has authority to enter into a final resolution agreement. Policy, authority, and legal consideration shall be coordinated prior to entering into a resolution agreement.

5. Neutral. An individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy. This individual may be a Government employee or someone outside the Government.

6. Issue in Controversy. An issue which is material to a decision concerning an administrative program of an organization, and with which there is a disagreement between the DLA Field Activity and persons who would be substantially affected by the decision, but shall not extend to matters specified under the provisions of sections 2302 and 7121(c) of Title 5 (prohibited personnel practices, Hatch Act violations and matters already subject to Collective Bargaining Agreements). In addition, for disputes processed under the jurisdiction of an outside agency or forum, the statutory and regulatory requirements of those agencies and forums take precedence over this DLIS directive and the DLA One Book Chapter, Alternative Dispute Regulation.

7. Shared Neutral. The DRMS Office of Counsel (DRMS-G) and the Battle Creek Veteran's Administration Medical Center (VAMC), participate in a program to share neutrals from their respective pool of Federal mediators. The purpose of this program is to provide a source of quality, low-cost mediation services principally for Michigan and surrounding areas within a 150-mile radius. The expense for mediation services will be on the Agency requiring the mediation services (e.g., travel and per diem).

8. Resolution Agreement. Written agreement resolving a dispute between the parties.

E. POLICY.

1. "Early Detection is Early Correction". ADR techniques shall be used as an alternative to litigation or formal administrative procedures to the maximum extent practicable at the earliest stage of a controversy.

2. DRMS shall consider the use of ADR in every situation where unassisted negotiations have not proved effective. This includes the use of ADR as provided for in this instruction and the use of ADR as provided for by the DLA One Book Chapter, Alternative Dispute Resolution (see D.6. above).

3. If parties agree to utilize ADR, parties need to consider time limitations that may affect their rights. If resolution is not reached, parties can readdress their complaint utilizing formal means (i.e., grievance procedures, EEO complaint).

4. A management decision not to use ADR shall only be made after its possible use has been fully evaluated and discussed. At a minimum, discussions shall take place between the deciding official and the activity ADR specialist. A decision not to use ADR must be documented in writing by an official at least one level above the deciding official.

5. While all forms of ADR should be considered and used if appropriate, special consideration shall be given to the use of mediation. This process, in which the parties to a dispute meet in a non-adversarial setting and arrive at their own resolution, with the help of a skilled facilitator, is especially effective for workplace disputes and contract disputes.

6. To the maximum extent practicable, Shared Neutrals' facilitators should be used when a DRMS party involved in a controversy requests a facilitator/mediator outside of the Federal Center.

F. RESPONSIBILITIES.

1. DRMS-G shall:

- a. Assist managers in carrying out their ADR responsibilities, and facilitate the sharing of ADR information and resources through the Federal Center.
- b. Serve as the DLA Field Activity ADR Counsel and/or ADR Specialist.
- c. Administer the provisions of the instructions and furnish guidance and assistance in implementation of ADR practices and procedures.
- d. Establish an ADR Working Group.
- e. Act as the Liaison between the DLA Field Activity and the DLA ADR Counsel.
- f. Develop ADR policies, procedures, and initiatives, coordinating and promoting them with other field offices.
- g. Monitor implementation, evaluate program execution and results, and submit periodic reports describing DRMS use of ADR to DLA.
- h. Determine the appropriate and necessary ADR training.
- i. Represent the DLA Field Activity in the DLA ADR Practice Group.
- j. Conduct annual ADR training.

- k. Serve as the focal point for DRMS mentors/mentees under the DLA ADR Mentor/Mentee Program.
 - l. Provide oversight for the "Shared Neutrals" Program.
 - m. Maintain this directive in a current status and review it biennially.
2. Managers shall:
- a. Ensure ADR techniques are used to the maximum extent practicable, to avoid the unnecessary expenditures of time, money, and resources on litigation.
 - b. Take steps to foster greater use of ADR including the elimination of unnecessary barriers.
 - c. Provide ADR training opportunities for employees.
 - d. Coordinate ADR activity with the DRMS-G ADR Specialist and report ADR results to the DRMS Office of Counsel.
 - e. Ensure when participating in ADR that coordination has taken place within the management official's chain of command.
 - f. Seek counsel and advice from the Office of Counsel ADR Specialist on matters dealing with the ADR process.
- G. EFFECTIVE DATE AND IMPLEMENTATION. This directive is effective and implemented upon signature by the applicable DRMS authority.
- H. INFORMATION REQUIREMENTS. (Reserved for future use.)

/s/
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